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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: S. BOUET, et al.

Serial No.: 09/725,935

Filed: November 30, 2000

For: A METHOD OF AND A SYSTEM FOR DISTRIBUTING
ELECTRONIC CONTENT

Group: 3621

Examiner: David Q. LE

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**PETITION FOR WITHDRAWAL OF FINAL
REJECTION AND FOR NEW OFFICE ACTION**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 29, 2003

Sir:

Withdrawal of the finality of the rejections set forth in the Office Action of June 19, 2003 is respectfully requested. The basis for rejection of the claims is unclear, and so a proper rebuttal of the rejections can not be made.

A Request for Reconsideration, which should have been captioned as a Petition for Withdrawal of the Finality of the Office Action, was filed August 19, 2003, but an Advisory Action, dated September 18, 2003 has now been received, ignoring almost all of the portions of the Request for Reconsideration which point out the unclear nature of the Office Action, and simply stating that the Request for Reconsideration did not place the application in condition for allowance.

The grounds for rejection in the June 19, 2003 Office Action are

unclear. In response to the first Office Action, an Amendment was filed March 31, 2003. The June 19, 2003 Office Action states that the "Request for Reconsideration" filed on March 31, 2003 has been considered but is ineffective to overcome the references cited in the first Office Action. The June 19, 2003 Office Action next states that Applicants' arguments have been considered but they are moot in view of the new grounds for rejection. Thus it is unclear whether the June 19, 2003 Office Action is rejecting the claims for the same reasons as in the first Office Action or for new reasons.

More significantly, the basis for rejection is unclear. The Office Action states that claims 1, 3, and 6-18 are rejected under 35 U.S.C. §102(b) as being anticipated by either Martineau or Ginter. However in discussing each of these claims, the Office Action concludes by stating that it would have been obvious to apply Ginter's teaching to Martineau's system, thus combining Martineau and Ginter. A combination is not anticipation under 35 U.S.C. §102(b), although it might be basis for a rejection for obviousness under 35 U.S.C. §103. Thus, the basis for rejection of these claims is unclear.

The Office Action, which states that claims 1, 3, and 6-18 were rejected under 35 U.S.C. §102(b) as being anticipated by either Martineau or Ginter, states with respect to claim 7 that Ginter in view of Martineau discloses all of the imitations of claim 1 and further discloses the limitations of original claim 7. Aside from the fact that Ginter in view of Martineau does not constitute a rejection under 35 U.S.C. §102(b), claim 7 was cancelled in the Amendment of March 31, 2003.

Claims 4, 5, and 19-31 were rejected under 35 U.S.C. §103(a) as being unpatentable in view of Ginter in view of Martineau and further in view of "Nokia Mobile Phones Limited (Nokia), International Patent Publication No WO 00/18205." International Patent Publication No. WO 00/18205 relates to an assembly system for fitting supports with componentry. It has no bearing on the claimed invention, and so the basis for this rejection is unclear.

37 C.F.R. §1.104 requires that the Examiner's action include making a thorough investigation of the available prior art relating to the subject matter of the claimed invention and states that the examination shall be complete as to the patentability of the invention as claimed. The June 19, 2003 Office Action does not meet this requirement.

In view of the above, it is urged that the finality of the rejection should be withdrawn and that a new, proper Office Action should be provided. Such action would be appreciated.

Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 0171.39361X00), and please credit any excess fees to such deposit account.

Respectfully submitted,

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